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PROCEEDINGS
OF THE
AMERICAN PHILOSOPHICAL SOCIETY
HELD AT PHILADELPHIA FOR PROMOTING USEFUL KNOWLEDGE.

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No. 148.

HENRY M. PHILLIPS PRIZE ESSAYS.

[CIRCULAR ISSUED BY COMMITTEE.]

PHILADELPHIA, 104 SOUTH FIFTH ST., MAY 1, 1893.

The American Philosophical Society held at Philadelphia for the promotion of useful knowledge has the honor to announce that an award of the Henry M. Phillips Prize will be made during the year 1895 ; essays for the same to be in the possession of the Society before the first day of January, 1895. The subjects upon which essays are to be furnished by competitors are as follows :

1. The sources, formation, and development, of what is generally designated the Common Law of England.
2. The theory of the State, treated historically, and upon principle, with a discussion of the various schools of classical, mediæval, and modern thought, upon the subject.
3. The historical and doctrinal relations of the Roman Law and the English Law, illustrated by parallels and contrasts.

The Prize for the crowned essay on either of these subjects will consist of the sum of five hundred dollars lawful gold coin of the United States, to be paid upon the awarding of the prize. The Society invites attention to the laws governing said prize, which accompany this circular.

RICHARD VAUX, *Chairman* ;
HENRY PHILLIPS, JR.,
WILLIAM V. MCKEAN,
FURMAN SHEPPARD,
JOSEPH C. FRALEY,

—AND—

FREDERICK FRALEY, *President of the Society*, }
J. SERGEANT PRICE, *Treasurer of the Society*, } *Ex-officio.*

Committee on the
Henry M. Phillips
Prize Essay Fund

The essays must be sent, addressed to Frederick Fraley, President of the American Philosophical Society, Hall of the Society, No. 104 South Fifth Street, Philadelphia, Pa.,

EXTRACT FROM THE LAWS.

THE HENRY M. PHILLIPS PRIZE ESSAY FUND.

Miss Emily Phillips, of Philadelphia, a sister of Hon. Henry M. Phillips, deceased, presented to the American Philosophical Society held at Philadelphia for Promoting Useful Knowledge, the sum of five thousand dollars for the establishment and endowment of a Prize Fund, in memory of her deceased brother, who was an honored member of the Society. The Society accepted the gift and agreed to make suitable rules and regulations to carry out the wishes of the donor, and to discharge the duties confided to it. In furtherance whereof, the following rules and regulations were adopted by the Society :

First. The Prize Endowment Fund shall be called the "Henry M. Phillips Prize Essay Fund."

Second. The money constituting the Endowment Fund, viz., five thousand dollars, shall be invested by the Society in such securities as may be recognized by the laws of Pennsylvania, as proper for the investment of trust funds, and the evidences of such investment shall be made in the name of the Society as Trustee of the Henry M. Phillips Prize Essay Fund.

Third. The income arising from such investment shall be appropriated as follows :

(a) To making public advertisement of the prize and the sum or amount in United States gold coin, and the terms on which it shall be awarded.

(b) To the payment of such prize or prizes as may from time to time be awarded by the Society for the best essay of real merit on the Science and Philosophy of Jurisprudence, and to the preparation of the certificate to be granted to the author of any successful essay.

Fourth. Competitors for the prize shall affix to their essays some motto or name (not the proper name of the author, however), and when the essay is forwarded to the Society, it shall be accompanied by a sealed envelope containing within the proper name of the author, and, on the outside thereof, the motto or name adopted for the essay.

Fifth. At a stated meeting of the Society, in pursuance of the advertisement, all essays received up to that time shall be referred to a Committee of Judges, to consist of five persons, who shall be selected by the Society from nomination of ten persons made by the Standing Committee on the Henry M. Phillips Prize Essay Fund.

Sixth. All essays may be written in English, French, German, Dutch, Italian, Spanish or Latin; but, if in any language except English, must be accompanied by an English translation of the same.

Seventh. No treatise or essay shall be entitled to compete for the prize that has been already published or printed, or for which the author has received already any prize, or profit, or honor, of any nature whatsoever.

Eighth. All essays must be *clearly* and *legibly* written and on one side of the paper only.

Ninth. The literary property of such essays shall be in their authors, subject to the right of the Society to publish the crowned essays in its *Transactions* or *Proceedings*.

Tenth. A Standing Committee, to consist of five members appointed by the President, and, *ex-officio*, the President and the Treasurer of the Society, shall continue in office during the pleasure of the Society, and any vacancies that may occur in said Committee shall be filled by new appointment by the President.

Eleventh. The said Committee shall have charge of all matters connected with the management of this endowment and the investment of the same, and shall make such general rules for publishing the terms upon which said prize shall be competed for, and the amount of the said prize, and if it shall deem it expedient, designate the subjects for competing essays. It shall report annually to the Society, on the first Friday in December, all its transactions, with an account of the investment of the Prize Fund, and of the income and expenditures thereof.

The following-named gentlemen were selected by the Society as a Committee of Judges: J. Randolph Tucker, of Virginia; James C. Carter, of New York; George F. Edmunds, of Vermont; E. J. Phelps, of New Haven, Conn.; C. Stuart Patterson, of Philadelphia, Pa.

THE REPORT AND AWARD
OF THE
COMMITTEE OF JUDGES
ON THE
HENRY M. PHILLIPS PRIZE ESSAYS.

*To the HON. FREDERICK FRALEY, President of the
American Philosophical Society:*

SIR:—We, the undersigned, having been, together with the Hon. J. Randolph Tucker, of Virginia, selected by the American Philosophical Society as a Committee of Judges to whom were referred the several essays sent to the Society in competition for the Henry M. Phillips Prize, under the terms of the circular issued by the Society on the first day of May, 1893, have the honor to report:

That in the performance of the duty imposed upon us, we met at the hall of the Society on Monday, 8th April, 1895, and on Tuesday, 9th April, 1895, and that we there read and considered the several essays submitted to us and hereinafter referred to.

Greatly to our regret the Hon. J. Randolph Tucker was unavoidably prevented from meeting us and affording to us the benefit of his accurate knowledge and sound judgment.

Upon the first of the subjects designated by the Society in its circular of 1st May, 1893, to wit: "The sources, formation and development of what is generally designated 'The Common Law of England,'" three essays were submitted for our consideration, entitled and designated as follows:

No. 1. "The sources, formation and development of what is generally designated 'The Common Law of England.'" By "Viking."

No. 2. "The sources, formation and development of what is generally designated 'The Common Law of England.'" By "Vox Populi."

No. 3. "The sources, formation and development of the Common Law." By "Imogene."

Under the second of the subjects designated in the Society's circular of 1st May, 1893, to wit: "The theory of the State, treated historically and upon principle, with a discussion of the various schools of classical, mediæval, and modern thought upon the subject," five essays were referred to us, entitled and designated as follows:

No. 1. "The Theory of the State." By "Ayala."

No. 2. "The Nature of the State." By "Cegra."

No. 3. "The Theory of the State." By "Amicus Plato, Amicus Socrates, Sed Magis Amica Veritas."

No. 4. "The Theory of the State." By "Civis XXV."

No. 5. "The Theory of the State, treated historically and upon principle, with a discussion of the various schools of classical, mediæval, and modern thought upon the subject." By "A Sovereign."

Upon the third of the subjects designated in the Society's circular of 1st May, 1893, to wit: "The historical and doctrinal relations of the Roman Law and the English Law, illustrated by parallels and contrasts," no essays were submitted to us.

As a preliminary to the determination of the relative merits of the several essays, we concluded that our duty to the Society forbade us to set the seal of its approval upon any essay which should fall short of a very high standard of excellence.

We are unanimously of opinion and we report that no one of the essays referred to us in competition for the first subject designated by the Society, to wit: "The sources, formation, and development of what is generally designated 'The Common Law of England'" is of sufficient merit to justify the award of a prize to it. We, therefore, recommend that the three essays submitted in competition upon this subject be returned to their respective authors.

We have carefully considered and compared the five essays referred to us in competition for the prize to be awarded for the best essay upon the second subject stated in the circular of the

Society, to wit: "The Theory of the State, treated historically and upon principle, with a discussion of the various schools of classical, mediæval, and modern thought upon the subject."

Understanding the words "real merit," as used in the third regulation (*b*) of the Society, to be taken in the sense of high excellence, as a work of scholarship, considered chiefly with reference to its logical character and literary execution, while not wholly ignoring its soundness of theory, we are unanimously of opinion that, having regard to the evidence which it presents of historical research, to its accuracy of thought, and to its originality of treatment, the essay entitled "The Theory of the State," by "Amicus Plato, Amicus Socrates, Sed Magis Amica Veritas," is entitled to the highest consideration, and is worthy of the great honor of being crowned by the Society.

We are also unanimously of opinion that the essay entitled "The Nature of the State," by "Cegra," is worthy of high commendation, and that honorable mention may justly be made of it.

While we heartily concur in awarding the prize and in making honorable mention of the essays, to which we have referred, we are not to be understood as expressing, either on behalf of the Society or upon our own behalf, any assent to the historical deductions, or conclusions, or any approval of the theories of government or of politics, stated in either of the commended essays.

We deem our duty to be fully performed when we report to the Society the essays deemed to be worthy of crowning or of honorable mention, with the designation of those essays by that motto or name which the respective authors have affixed thereto, and we do not regard it to be within the scope of the authority committed to us to open the sealed envelopes containing the names of those whose essays we deem to be worthy of honor.

Signed this 17th day of May, 1895.

JAMES C. CARTER,
GEORGE F. EDMUNDS,
E. J. PHELPS,
C. STUART PATTERSON.

The report of the judges having been presented to President Fraley, the envelopes containing the names of the successful

competitors were opened by Mr. Fraley and J. Sergeant Price, Esq., and it was found that the winner of the prize is GEORGE H. SMITH, Esq., of Los Angeles, California, and that the essay of which Honorable Mention is made was written by WESTEL W. WILLOUGHBY, of Leland Stanford University, Palo Alto, California.

Approved by the Society,

FREDERICK FRALEY, *President.*

J. SERGEANT PRICE, *Treasurer.*